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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 UNITED STATES OF AMERICA,)
)
8 Plaintiff,) Case No. CR03-00482-1-RSL
)
9 v.) **PROPOSED FINDINGS OF**
) **FACT AND DETERMINATION**
10 GEOFFERY NEWMAN,) **AS TO ALLEGED**
) **VIOLATIONS OF**
11 Defendant.) **SUPERVISED RELEASE**
)

12
13 INTRODUCTION

14 I conducted a hearing on alleged violations of supervised release in this case on March 31,
15 2009. The defendant appeared pursuant to a summons issued in this case. The United States
16 was represented by Michael Lang, and defendant was represented by Gilbert Levy. Also present
17 was U.S. Probation Officer Jerrod Akins. The proceedings were digitally recorded.

18 CONVICTION AND SENTENCE

19 Defendant was sentenced on November 5, 2004 by the Honorable Robert S. Lasnik to
20 Conspiracy to Distribute Marijuana. He received eight months of imprisonment and three years
21 of supervised release. On January 22, 2008, defendant admitted using cocaine and alcohol. The
22 Court concurred with the recommendation that no action be taken. On April 28, 2008, the Court
23 granted a request to modify supervision and ordered defendant to participate in home

PROPOSED FINDINGS OF FACT AND
DETERMINATION AS TO VIOLATIONS OF
SUPERVISED RELEASE -1

1 confinement. On November 2, 2008, the Court sentenced defendant to 2 days of confinement and
2 one year of supervision after defendant admitted he failed to comply with the confinement
3 program.

4 PRESENTLY ALLEGED VIOLATIONS AND
5 COURT'S FINDING FOLLOWING EVIDENTIARY HEARING

6 In a petition dated February 26, 2009, U.S. Probation Officer Jerrod Akins alleged that
7 defendant violated the following conditions of supervised release:

8 1. Failing to participate as instructed in a substance abuse treatment program in
9 violation of a special condition of supervision.

10 Defendant denied the allegation and the Court conducted an evidentiary hearing on March
11 31, 2009. U.S. Probation Officer Jerrod Akins and defendant testified. The Court also admitted
12 two exhibits into evidence. Defendant contended neither the special treatment condition nor the
13 U.S. Probation Officer made it clear that he was required to participate in a treatment program.
14 Defendant in fact testified he did not think treatment was a condition of his supervision and that
15 he was only required to stay clean and sober. However, defendant's judgment (exhibit 2) not
16 only prohibits defendant from consuming illegal drugs and alcohol, it also requires defendant, as
17 a separate condition, to participate in treatment as directed by the probation officer. The
18 testimony presented also established defendant and his probation officer discussed treatment, that
19 the probation officer approved of treatment at St. Joseph's hospital, that defendant last attended
20 the program on January 19, 2009, and that defendant was terminated from the program in
21 February 2009.

22 Following the evidentiary hearing, defendant was advised he was still required to comply
23 with all conditions of his supervised release. He was also advised that a disposition hearing was

1 scheduled for April 14, 2009 at 8:30 am before Chief Judge Lasnik.

2 RECOMMENDED FINDINGS AND CONCLUSIONS

3 Based upon the foregoing, I recommend the court find that defendant has violated the
4 conditions of his supervised release as alleged above, and conduct a disposition hearing.

5 DATED this 31st day of March, 2009.

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8 BRIAN A. TSUCHIDA
United States Magistrate Judge